

TAXATION OF PUBLIC UTILITIES

A. INTRODUCTION

Wisconsin imposes gross revenues or ad valorem taxes on utilities in lieu of local property taxes on these businesses. Carlines, electric cooperative associations, and municipal and private light, heat, and power companies pay taxes on their gross revenues. Airlines, conservation and regulation companies, municipal electric association projects, pipelines, railroads, and telephone companies pay an ad valorem tax.

Table 1 shows utility tax collections in FY02 for gross revenues and ad valorem taxpayers. As the table shows, private light, heat, and power companies and telephone companies pay 85% of utility taxes.

TABLE 1
UTILITY TAX COLLECTIONS, FY 02

Utility by Type of Tax	Collections
Gross Revenues	
Carlines	\$ 465,024
Electric Cooperative Associations	8,586,399
Municipal Light, Heat, and Power	1,656,643
Private Light, Heat, and Power	143,134,141
Ad Valorem - Unit Value	
Airlines	5,440,902
Conservation and Regulation Companies	101,526
Municipal Electric Association Projects	1,273,139
Pipelines	10,260,440
Railroads	11,755,291
Ad Valorem – Tangible Property Value	
Telephone Companies	86,638,137
TOTAL	\$269,311,642

B. HISTORICAL BACKGROUND

Prior to the early 1900s, each municipality valued and taxed public utility property located within its borders. This tax system became less practical as utility service territories expanded to cover several municipalities.

In 1905, the state began valuing railroad property under the "unitary" concept whereby each railroad was valued as a whole, as opposed to separate values in each municipality. At the same time, the tax rate was switched from individual municipal tax rates to the statewide average tax rate. In 1908, street railway companies and their related light, heat, and power companies were brought under state taxation. In 1917, other light, heat, and power companies with property in more than one municipality were brought under this system; however, municipal tax rates continued to apply until replaced in 1929 with the state average rate. This system of taxation was extended to

airlines in 1946 and to pipelines in 1950.

For some utility companies, the state tax is based on revenues instead of property values. Rural electric cooperatives, organized in the 1930s, were originally taxed on their property. However, in 1939, they were switched to a tax based on gross revenues. In 1985, private light, heat, and power companies were switched to a tax based on gross revenues. Telecommunications companies had been taxed based on their gross revenues since they began service in the state. However, in 1998, they began a switchover to being taxed on their property.

A utility serving retail customers whose customers and property are all located within a single municipality is assessed and taxed locally under the general property tax. However, if such a utility's primary business is selling electricity at wholesale and its generating plant(s) has/have a generating capacity of 50 megawatts or more, the utility is taxed under the state gross revenues tax.

C. GROSS REVENUES TAXPAYERS

Under this tax regime, a company's tax liability equals its gross revenues allocated to Wisconsin multiplied by a specified tax rate. Carlines are taxed at 3% of their gross revenues, electric cooperative associations at 3.19%, and private light, heat, and power companies at 0.97% of their revenues from gas services and 3.19% of their revenues from electric and other services (primarily steam and water).

Gross revenues taxpayers are allowed to make the following deductions or exclusions from their taxable revenues:

1. Private light, heat, and power companies may deduct an amount equal to the following percentages of their cost of power purchased for resale:
 - a. 100% if the company purchased more than 50% of the power it sells, the power was not purchased from a company with an "affiliated interest" (i.e., neither company may have an ownership interest in the other), and the revenue from the purchased power was included in the seller's gross revenue as reported to the Wisconsin Public Service Commission (i.e., the seller is subject to Wisconsin's gross revenues tax).
 - b. 50% if the company purchases more than 90% of its power, and the company has less than \$50 million of gross revenues.
2. Electric cooperatives may deduct the cost of power purchased for resale if the cooperative purchases more than 50% of the power it sells, and the revenue from the purchased power is included in the seller's gross revenues subject to gross receipts taxes.
3. Private light, heat, and power companies' may exclude fees for "public benefits" programs such as low-income energy assistance, energy conservation, and renewable energy assistance programs. Once the responsibility of the utilities, these programs were transferred to the state and funded by a monthly "public benefits" fee utilities are required to collect from their customers and remit to the state. Electric cooperatives and municipal electric companies can either participate

in the state programs or operate their own "public benefits" programs, with costs to be funded by a monthly fee from their customers.

4. An electric transmission company may exclude revenues derived from services provided to Wisconsin-organized electric cooperatives that provide wholesale service to their members, Wisconsin-based municipal light, heat, and power companies, and private light, heat, and power companies subject to the state's gross revenues tax. One transmission company, American Transmission Company LLC, primarily serving the eastern and central parts of the state, began operations on January 1, 2001. A second transmission company for the Northern States Power area in western Wisconsin is likely to begin operations in 2003.

D. AD VALOREM TAXPAYERS

The Department of Revenue determines the taxable value of utility companies operating in the state. Utilities other than telephone companies are taxed on the basis of the portion of their unit (total company) value allocated to Wisconsin. This method is applied to railroads, airlines, pipelines, and conservation and regulation companies. Municipal electric association projects (power systems owned by two or more municipal light, heat, and power companies) make an in-lieu of tax payment based on this method. The utility's value allocated to Wisconsin is multiplied by the net statewide average tax rate to determine the utility's tax liability. The net statewide average tax rate is calculated by dividing the total statewide property taxes levy minus the school levies credit by the statewide full market value of taxable property.

Telephone companies were taxed based on their gross revenues until 1998, at which time they began paying the property tax. In addition to the telephone property tax, local exchange companies and cellular telephone companies also paid a gross revenues-based tax during a 2-year transition period ending in 2000. Under the property tax, the real and personal property of each telephone company in a given municipality is taxed at the prior year's net rate applicable in that municipality.

The following classes of utility property are exempt from the state's ad valorem taxes:

1. Hub airlines. A provision of 2001 Wisconsin Act 16 (the biennial budget bill) provided this exemption. An airline qualifies as a "hub airline" if, in the prior year, it operated at least 45 common carrier flights each weekday out of a single Wisconsin airport to at least 15 non-stop destinations, or it is headquartered in Wisconsin and it operated, from one or several airports in Wisconsin, at least 20 common carrier flights each weekday.
2. Motor vehicles such as automobiles, trucks, and trailers owned by telephone, airline, pipeline, railroad, or conservation and regulation companies. These vehicles are subject to registration fees in the same manner as other motor vehicles.

3. Property used as a waste treatment facility owned by telephone, airline, pipeline, railroad, or conservation and regulation companies.
4. Computers owned by telephone, airline, pipeline, railroad, or conservation and regulation companies. The exemption took effect on January 1, 2000. Beginning in 2003, cash registers and fax machines, excluding fax machines that are also copiers, owned by these companies will also be exempt.
5. Beginning in 2003, telephone company property that is used less than 50% in the operation of a telephone company will be exempt from the state tax on telephone companies. However, such property will be subject to local property taxes.